

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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|--------------------------------|---|--------------|
| TYRONE JOHNSTON, | : | CIVIL ACTION |
| | : | NO. 15-04800 |
| | : | |
| Petitioner, | : | |
| | : | |
| v. | : | |
| | : | |
| LAWRENCE MAHALLY, ¹ | : | |
| DISTRICT ATTORNEY OF COUNTY OF | : | |
| PHILADELPHIA, and | : | |
| ATTORNEY GENERAL OF THE STATE | : | |
| OF PENNSYLVANIA | : | |
| | : | |
| Respondents. | : | |

O R D E R

AND NOW, this **21st** day of **December, 2018**, after review of the Petition for a Writ of Habeas Corpus (ECF No. 1), Petitioner's Memorandum of Law in Support (ECF No. 6), Respondents' Response to the Petition (ECF No. 23); Petitioner's Traverse to the Response (ECF No. 28); Respondents' Supplemental Exhibits (ECF No. 30); the Report and Recommendation of United States Magistrate Judge Lynne Sitarski (ECF No. 32), and Petitioner's objections thereto (ECF No. 39), and for the reasons set forth in the accompanying memorandum, it is hereby **ORDERED** as follows:

¹ See Rules Governing § 2254 Cases in the United States District Courts, Rule 2.

- 1) The Report and Recommendation (ECF No. 32) is **APPROVED** as to Grounds One, Three, Five, Six, Seven, Eight, and Nine;²
- 2) Following de novo review, Petitioner's Objections as to the Report and Recommendation (ECF No. 39) are **OVERRULED**, and the Petition as to Grounds Two and Four is **DENIED** for the reasons provided in Memorandum issued this same day;
- 3) The Petition for a Writ of Habeas Corpus (ECF No. 1) is **DENIED** as to all grounds and **DISMISSED WITH PREJUDICE**;
- 4) A certificate of appealability shall **NOT** issue; and
- 5) The Clerk of Court shall mark this case as **CLOSED**.

AND IT IS SO ORDERED.

/s/ Eduardo C. Robreno
EDUARDO C. ROBRENO, J.

² In his Objection to Report and Recommendation, Petitioner stated that he "objects to the R&R relating to Claims Two and Four, and concedes to the remaining as presented therein." ECF No. 39 ¶ 20.